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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,865	10/01/2004	Migaku Suzuki	120904	2855
25944 7590 08/21/2008 OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850				
EXAMINER				
LONEY, DONALD J				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
08/21/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/509,865

Applicant(s)

SUZUKI ET AL.

Examiner

Donald Loney

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-14 is/are pending in the application.
- 4a) Of the above claim(s) 3-6, 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8-10, 13, 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Crowe (3122142) as presented in the last office action, mailed February 11, 2008.

Crowe discloses an absorber comprising two absorbent sheets 24, 25 and what can be considered a by-pass channel member 26 of bundled fibers that feed liquid from one sheet 24 down to the other sheet 25 per claim 1 and 14. Refer to figure 6 and column 7, lines 33-54. With regards to claim 2, see column 5, line 41 disclosing the absorbent sheet as 1/32 inches which equals .79mm.

3. Claims 1, 8-10, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Pigneul (4731071).

Pigneul discloses an absorber that contains at least two absorbent layers 26, 29 and/or 30, wherein layer 30 can be considered the inner layer closest to the skin of a wearer and layer 26 is the outer layer, wherein a by-pass channel member 8 and/or 31 would allow liquid to pass from any surface of absorbent layers 26, 29 the outer absorbent layer 26 per claim 1. Refer to figure 11 along with column 4, lines 33-46. With regards to claims 8-10, sheet 8 is a non-woven material (see column 4, line 44) and is positioned as recited in the claims (i.e. above both sheets, above the surface of the first

sheet and over the vicinity of the center of the first sheet per claims 8-10 respectively).

With regards to claim 13, there is a liquid impermeable layer 9. With regards to claim 14, the channel member 8 and /or 31 would transport fluid to another sheet since there are three absorbent sheets 26, 29 and 30 shown in figure 11.

4. Claims 1, 2, 8-10, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 01/24750 to Lindsay et al.

Lindsay et al disclose an absorber comprising two absorbent layers 18 and 20, wherein upper layer 18 is composed of two absorbent layers 36, 38 which would be closer to the skin of a wearer than outer absorbent layer 20 with a by-pass channel member 24 with apertures 74 that would allow liquid to pass from any surface of absorbent layers 36, 38 to the outer absorbent layer 20 per claim 1. Refer to figure 6 and page 25, lines 17-. With regards to claim 2, see page 37, lines 18-29. With regards to claims 8-10, see page 19, lines 10-21 disclosing the channel member can be a non-woven web and is positioned as recited in the claims as referred to above in matching the elements of the figures thereto. With regards to claim 13, there is a liquid pervious layer 12 and liquid impervious layer 14 as recited.

Response to Arguments

5. Applicant's arguments with respect to claims 1, 2, 8-10, 13 and 14 have been considered but are moot in view of the new ground(s) of rejection. With regards to the applicant's arguments over Crowe the applicant argues that the claimed invention is patentable over Crowe because of the amended limitation as to the sheets being

"super-absorbent". However, this is just a relative term, with no particular degree recited which would distinguish from the prior art.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald J. Loney/
Primary Examiner
Art Unit 1794

DJL;D.Loney
08/17/08